



W.P.No.6751 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.6751 of 2025
and W.M.P.Nos.7411 & 7413 of 2025

M/S.SCM INTERNATIONAL IMPEX
PKA INDIA PVT LTD (FORMERLY - SCM
INTERNATIONAL IMPEX PVT LTD)
896/2 SURIYAN NAGAR, ABT ROAD EXTENSION
KARUVAMPALAYAM COIMBATORE - 641 604.
REPRESENTED BY ITS
AUTHORISED SIGNATORY – K.KANNAN

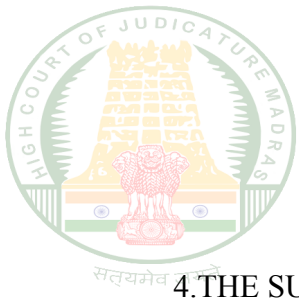
.. **Petitioner**

Vs.

1.TAMIL NADU ELECTRICITY REGULATORY COMMISSION
4TH FLOOR SIDCO BUILDING
THIRU. VI.KA. INDUSTRIAL ESTATE GUINDY
CHENNAI- 600 032 REP BY ITS SECRETARY.

2. TAMIL NADU POWER DISTRIBUTION
CORPORATION LTD(TNPDCL)
REP BY ITS CHAIRMAN,
144, ANNA SALAI CHENNAI- 02.

3.THE CHIEF ENGINEER/ NCES
TAMIL NADU GREEN ENERGY CORPORATION LTD
(TNGECL) 2ND FLOOR, 144 ANNA SALAI
CHENNAI-02.



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4.THE SUPERINTENDING ENGINEER
TAMIL NADU POWER DISTRIBUTION CORPORATION LTD
(TNPDC), PALLADAM EDC, PALLADAM.

.. **Respondents**

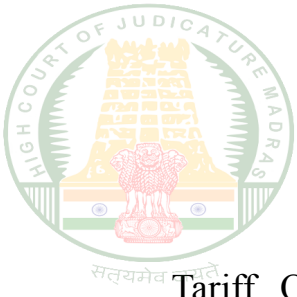
Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, calling for the records of the 3rd respondent's impugned notice bearing Lr. No. SE/ PEDC / PLDM / DFC / AO / Wind / AS /F. BOAB /D. 241 / 24 dated 22.11.2024 and quash the same illegal arbitrary and contrary to the Solar Tariff Order No. 4 of 2014 dated 12.09.2014 Intra State Open Access Regulations 2005, TNERC- Grid Connectivity and Intra State open Access Regulations 2014, the order passed in D.R.P. No.11 of 2022 dated 19.12.2023 and the supplement agreement dated 08.10.2021 and pass such further orders.

For the Petitioner : Mr.R.S.Pandiyaraj,

For the Respondents : Mr.M.Suresh Kumar
Additional Advocate General
Assisted by
Mr.L.Jai Venkatesh
Standing Counsel

ORDER

This Writ Petition is filed challenging the impugned notice dated 22.11.2024 and quash the same as illegal, arbitrary and contrary to the Solar



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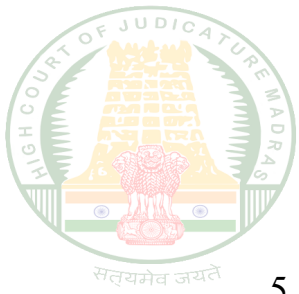
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Tariff Order No. 4 of 2014 dated 12.09.2014, Intra State Open Access Regulations 2005, TNERC- Grid Connectivity and Intra State Open Access Regulations 2014, and the order passed in D.R.P. No.11 of 2022 dated 19.12.2023 and the supplement agreement dated 08.10.2021

2. Heard *Mr. R.S. Pandiyaraj*, the learned counsel appearing on behalf of the petitioner, and *Mr. M. Suresh Kumar*, the learned Additional Advocate General appearing on behalf of the respondents.

3. After hearing the arguments of the learned counsel on both sides, it is evident that the petitioner is aggrieved by the impugned communication, which directs the petitioner to remit a sum of Rs.1,70,29,554/-.

4. The petitioner grievances that the amount is included in the earlier agreement, and the respondents are unjustified in directing the petitioner to remit it. Nevertheless, it is observed that the impugned order was issued without giving the petitioner an opportunity to show cause.



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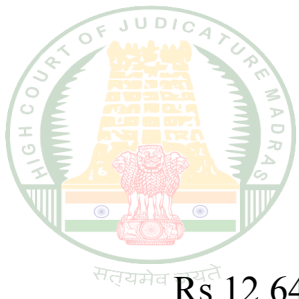
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5. To that limited extent, the learned Additional Advocate General would submit that the impugned order itself can be treated as a show cause notice and the petitioner can submit his explanation, which will be considered by the respondents and final orders will be passed.

6. The second grievance of the petitioner pertains to the name change. The petitioner asserts that following the merger as per the Order issued by the National Company Law Tribunal, the company's name must be changed so that the petitioner can continue to benefit from the captive investment.

7. The learned Additional Advocate General would submit that the three-month period within which the procedure must be complied with has lapsed. Be that as it may, when there is no other impediment except for the lapse of time, which is contended by the petitioner, it can be accepted on their behalf.

8. As a matter of fact, by an order dated 30.10.2024, the name change has been approved, and the petitioner has already paid the name change fee of



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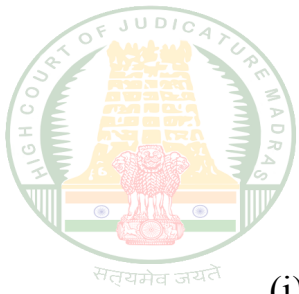
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Rs.12,644/-, the name transfer fee of Rs.2,52,791.40/-, and the long-term open access fee of Rs.29,500/-. What remains to be done is that, as per Clause 9 of the aforementioned order dated 30.10.2024, a revised agreement must be signed between the parties upon the petitioner paying the open access agreement fee at the rate of Rs.4,000/- per MW. The only amount that remains to be paid is this fee, and the agreement must be executed.

9. Additionally, the learned Additional Advocate General would submit that since the three-month period has lapsed, the petitioner now has to pay the long-term open access fee of Rs. 29,500/-.

10. Without adjudicating on the issue, and considering the overall circumstances of the case and since the amount now demanded, the petitioner can once again pay Rs. 29,500/-.

11. In view thereof, this Writ Petition is disposed of on the following terms,



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(i) The impugned order dated 22.11.2024 shall be treated as a show cause notice and the petitioner shall submit his explanation to the respondent, within a period of three weeks from the date of receipt of the website uploaded copy of this Order, without waiting for the certified copy, and the respondent shall consider the explanation in accordance with law and pass final orders thereof;

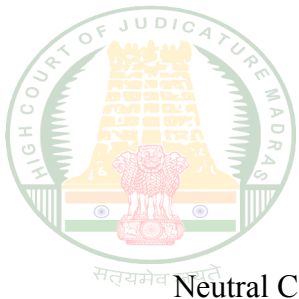
(ii) In the meanwhile, the petitioner shall make a representation by duly depositing the long term open access fee of Rs.29,500/- and also the open access agreement fee at the rate prescribed;

(iii) The agreement shall be entered into between the petitioner and the respondents. The said exercise shall be completed forthwith as if this month expires, once again the petitioner has to wait for one more month;

(iv) It is needless to mention that merely because the name transfer is ordered by this Court, the same shall not be a defence with reference to the show cause notice that has been issued.

(v) No costs. Consequently, the connected miscellaneous petitions are closed.

26.02.2025



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Neutral Citation : No

Note:Registry is directed to issue order copy on 27.02.2025

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To

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THIRU. VI.KA. INDUSTRIAL ESTATE GUINDY
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